



General Assembly

January Session, 2005

Raised Bill No. 1189

LCO No. 3837

03837_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING THE JUDICIAL REVIEW COUNCIL.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 2-40 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) Each nomination made by the Governor to the General
4 Assembly for the Chief Justice or a judge of the Supreme Court,
5 Appellate Court or Superior Court shall be referred, without debate, to
6 the joint standing committee [on] of the General Assembly having
7 cognizance of matters relating to the judiciary, which shall report
8 thereon within thirty legislative days from the time of reference, but no
9 later than seven legislative days before the adjourning of the General
10 Assembly.

11 (b) Notwithstanding the provisions of section 4-19, no vacancy in
12 the position of Chief Justice or judge of the Supreme Court, Appellate
13 Court or Superior Court shall be filled by the Governor when the
14 General Assembly is not in session unless, prior to such filling, the
15 Governor submits the name of the proposed vacancy appointee to the
16 joint standing committee [on] of the General Assembly having

17 cognizance of matters relating to the judiciary. Within forty-five days,
18 the committee [on the judiciary] may, upon the call of either
19 [chairman] chairperson, hold a special meeting for the purpose of
20 approving or disapproving such proposed vacancy appointee by
21 majority vote. The Governor shall not administer the oath of office to
22 such proposed vacancy appointee until the committee has approved
23 such proposed vacancy appointee. If the committee determines that it
24 cannot complete its investigation and act on such proposed vacancy
25 appointee within such forty-five-day period, it may extend such period
26 by an additional fifteen days. The committee shall notify the Governor
27 in writing of any such extension. Failure of the committee to act on
28 such proposed vacancy appointee within such forty-five-day period or
29 any fifteen-day extension period shall be deemed to be an approval.

30 (c) Prior to a public hearing on a judicial nomination, the joint
31 standing committee of the General Assembly having cognizance of
32 matters relating to the judiciary [committee] may employ a person to
33 investigate, at the request of the cochairpersons of [said] the
34 committee, any judicial nominee with respect to the suitability of such
35 nominee for judicial office. Such investigator shall report his findings
36 to [said] the committee and any such report shall be confidential and
37 shall not be subject to public disclosure. Such [person] investigator
38 shall receive such compensation as may be fixed by the Joint
39 Committee on Legislative Management for each day he is engaged in
40 his duties as an investigator.

41 (d) The Judicial Review Council shall provide, to the joint standing
42 committee of the General Assembly having cognizance of matters
43 relating to the judiciary, any information, including, but not limited to,
44 any confidential information, in its possession concerning a judicial
45 nominee referred to the committee pursuant to subsection (a) or (b) of
46 this section that may be requested in writing by the cochairpersons of
47 the committee. Such information shall be provided to the committee
48 not later than three business days following the date the request is
49 received by the Judicial Review Council. Any confidential information

50 provided to the committee as required by this subsection shall not be
51 further disclosed.

52 Sec. 2. Section 31-276 of the general statutes is repealed and the
53 following is substituted in lieu thereof (*Effective October 1, 2005*):

54 (a) There shall be a Workers' Compensation Commission to
55 administer the workers' compensation system. There shall be sixteen
56 workers' compensation commissioners. On or before the date of the
57 expiration of the term of each commissioner or upon the occurrence of
58 a vacancy in the office of any commissioner for any reason, the
59 Governor shall nominate a competent person to fill that office.
60 Subsequent to July 1, 1993, each person nominated by the Governor to
61 serve as a commissioner shall have been a member in good standing of
62 the Connecticut bar for at least five years preceding the nomination,
63 provided the Governor shall not be precluded from renominating an
64 individual who has previously served as a commissioner. The
65 commissioners shall, upon nomination by the Governor, be appointed
66 by the General Assembly as prescribed by law. They shall serve for a
67 term of five years, but may be removed by impeachment. The
68 Governor shall, from time to time, select one of the sixteen
69 commissioners to serve as chairman of the Workers' Compensation
70 Commission at the pleasure of the Governor. The commissioner
71 selected by the Governor to be chairman shall have previously served
72 as a compensation commissioner in this state for at least one year.

73 (b) Notwithstanding the provisions of subsection (a) of this section,
74 on and after October 1, 1988, any commissioner whose term expires on
75 December thirty-first shall continue to serve until the next succeeding
76 March thirty-first.

77 (c) Each nomination made by the Governor to the General Assembly
78 for a compensation commissioner shall be referred, without debate, to
79 the joint standing committee [on] of the General Assembly having
80 cognizance of matters relating to the judiciary, which shall report
81 thereon within thirty legislative days from the time of reference, but no

82 later than seven legislative days before the adjourning of the General
83 Assembly. Each appointment by the General Assembly of a
84 compensation commissioner shall be by concurrent resolution. The
85 action on the passage of each such resolution in the House and in the
86 Senate shall be by vote taken on the electrical roll-call device. No
87 resolution shall contain the name of more than one nominee. The
88 Governor shall, within five days after he or she has notice that any
89 nomination for a compensation commissioner made by [him] the
90 Governor has failed to be approved by the affirmative concurrent
91 action of both houses of the General Assembly, make another
92 nomination to such office.

93 (d) Notwithstanding the provisions of section 4-19, no vacancy in
94 the position of a compensation commissioner shall be filled by the
95 Governor when the General Assembly is not in session unless, prior to
96 such filling, the Governor submits the name of the proposed vacancy
97 appointee to the joint standing committee [on] of the General
98 Assembly having cognizance of matters relating to the judiciary.
99 Within ten days, the committee [on the judiciary] may, upon the call of
100 either [chairman] chairperson, hold a special meeting for the purpose
101 of approving or disapproving such proposed vacancy appointee by
102 majority vote. Failure of the committee to act on such proposed
103 vacancy appointee within such ten-day period shall be deemed to be
104 an approval.

105 (e) Each commissioner shall be sworn to a faithful performance of
106 his duties. After notice and public hearing, the Governor may remove
107 any commissioner for cause and the good of the public service. Each
108 compensation commissioner shall devote his full time to the duties of
109 his office and shall not be otherwise gainfully employed.

110 (f) The Judicial Review Council shall provide, to the joint standing
111 committee of the General Assembly having cognizance of matters
112 relating to the judiciary, any information, including, but not limited to,
113 any confidential information, in its possession concerning a nominee

114 referred to the committee pursuant to subsection (c) or (d) of this
115 section that may be requested in writing by the cochairpersons of the
116 committee. Such information shall be provided to the committee not
117 later than three business days following the date the request is
118 received by the Judicial Review Council. Any confidential information
119 provided to the committee as required by this subsection shall not be
120 further disclosed.

121 Sec. 3. Subsection (a) of section 51-45c of the general statutes is
122 repealed and the following is substituted in lieu thereof (*Effective*
123 *October 1, 2005*):

124 (a) The Judicial Review Council shall investigate every matter
125 referred to it under section 51-45b. Not later than five days after receipt
126 of such matter, the council, by registered or certified mail, shall notify
127 the judge or family support magistrate under investigation of such
128 referral. [Any] Except as provided in section 2-40, as amended by this
129 act, any investigation and proceeding held to determine whether or
130 not a judge or family support magistrate can fully perform his or her
131 judicial or magisterial duties because of mental infirmity or illness or
132 drug dependency or addiction to alcohol shall be confidential and any
133 individual called by the council for the purpose of providing
134 information shall not disclose his knowledge of such investigation and
135 proceeding to a third party, unless the judge or family support
136 magistrate requests that such investigation and proceeding be open.
137 The council may request the judge or family support magistrate to
138 submit all medical and other records pertaining to [said] the physical
139 and mental condition of such judge or family support magistrate. If a
140 judge or family support magistrate declines to submit such [record]
141 records or if further information is needed, the Judicial Review Council
142 may request the judge or family support magistrate to submit to
143 independent medical or other examinations at the expense of the
144 Judicial Department. A copy of the results of any independent
145 examination shall be provided to the judge or family support
146 magistrate. If a judge or family support magistrate fails or refuses to

147 submit to an independent examination requested by the council,
 148 unless such failure or refusal is due to circumstances beyond the
 149 judge's or family support magistrate's control, the judge or family
 150 support magistrate shall be precluded from submitting reports of
 151 medical examinations [done] conducted on the judge's or family
 152 support magistrate's behalf. The council may consider such judge's or
 153 family support magistrate's refusal or failure as evidence that the judge
 154 or family support magistrate has a mental infirmity or illness or drug
 155 dependency or addiction to alcohol. The judge or family support
 156 magistrate shall have the right to appear and be heard and to offer any
 157 information which may prove that he or she has no mental infirmity or
 158 illness or drug dependency or addiction to alcohol which prevents
 159 [him] such judge or family support magistrate from performing his or
 160 her judicial or magisterial duties. The judge or family support
 161 magistrate shall also have the right to be represented by legal counsel
 162 and examine and cross-examine witnesses.

163 Sec. 4. Subsection (c) of section 51-46a of the general statutes is
 164 repealed and the following is substituted in lieu thereof (*Effective*
 165 *October 1, 2005*):

166 (c) The statement filed pursuant to this section shall be a matter of
 167 public information, except the list of names filed in accordance with
 168 subdivision (2) of subsection (b) of this section shall be sealed and,
 169 except as provided in section 2-40, as amended by this act, shall be
 170 confidential and for the use of the Judicial Review Council and the
 171 Supreme Court only if an investigation has been initiated under
 172 section 51-51j and the Judicial Review Council or the Supreme Court is
 173 of the opinion that disclosure of the list is germane to the investigation.
 174 The list may be subject to a subpoena in any criminal prosecution,
 175 impeachment proceedings or a hearing before the Supreme Court
 176 under section 51-51j.

177 Sec. 5. Subsection (b) of section 51-49 of the general statutes is
 178 repealed and the following is substituted in lieu thereof (*Effective*

179 October 1, 2005):

180 (b) If the Judicial Review Council finds that the justice, judge, Chief
 181 State's Attorney, Deputy Chief State's Attorney, state's attorney, Chief
 182 Public Defender, Deputy Chief Public Defender, public defender,
 183 family support magistrate or compensation commissioner is
 184 permanently incapacitated from adequately fulfilling his duties, (1) the
 185 justice, judge, family support magistrate or compensation
 186 commissioner shall thereupon be retired with retirement pay to be
 187 determined as provided by section 51-50, or (2) the Chief State's
 188 Attorney, Deputy Chief State's Attorney, state's attorney, Chief Public
 189 Defender, Deputy Chief Public Defender or public defender shall
 190 thereupon be retired and shall receive as retirement pay, annually,
 191 two-thirds the salary of the office which he held at the time of his
 192 retirement, as such salary may be changed from time to time. No judge
 193 shall be denied benefits under section 51-50 as a result of the expiration
 194 of his judicial term of office during the pendency of a disability matter
 195 before the Judicial Review Council. [Any] Except as provided in
 196 section 2-40 or 31-276, as amended by this act, any council proceedings
 197 pursuant to this section shall be confidential.

198 Sec. 6. Subsections (a) and (b) of section 51-51l of the general statutes
 199 are repealed and the following is substituted in lieu thereof (*Effective*
 200 *October 1, 2005*):

201 (a) Except as provided in subsection (d) of this section, the Judicial
 202 Review Council shall investigate every written complaint brought
 203 before it alleging conduct under section 51-51i, and may initiate an
 204 investigation of any judge, compensation commissioner or family
 205 support magistrate if (1) the council has reason to believe that conduct
 206 under section 51-51i has occurred, or (2) previous complaints indicate a
 207 pattern of behavior which would lead to a reasonable belief that
 208 conduct under section 51-51i has occurred. The council shall, not later
 209 than five days after such initiation of an investigation or receipt of such
 210 complaint, notify by registered or certified mail any judge,

211 compensation commissioner or family support magistrate under
212 investigation or against whom such complaint is filed. A copy of any
213 such complaint shall accompany such notice. The council shall also
214 notify the complainant of its receipt of such complaint not later than
215 five days thereafter. [Any] Except as provided in section 2-40 or 31-276,
216 as amended by this act, any investigation to determine whether or not
217 there is probable cause that conduct under section 51-51i has occurred
218 shall be confidential and any individual called by the council for the
219 purpose of providing information shall not disclose his knowledge of
220 such investigation to a third party prior to the decision of the council
221 on whether probable cause exists, unless the respondent requests that
222 such investigation and disclosure be open, provided information
223 known or obtained independently of any such investigation shall not
224 be confidential. The judge, compensation commissioner or family
225 support magistrate shall have the right to appear and be heard and to
226 offer any information which may tend to clear him of probable cause
227 to believe he is guilty of conduct under section 51-51i. The judge,
228 compensation commissioner or family support magistrate shall also
229 have the right to be represented by legal counsel and examine and
230 cross-examine witnesses. In conducting its investigation under this
231 subsection, the council may request that a court furnish to the council a
232 record or transcript of court proceedings made or prepared by a court
233 reporter, assistant court reporter or monitor and the court shall, upon
234 such request, furnish such record or transcript.

235 (b) The council shall, not later than three business days after the
236 termination of such investigation, notify the complainant, if any, and
237 the judge, compensation commissioner or family support magistrate
238 that the investigation has been terminated and the results thereof. If
239 the council finds that conduct under section 51-51i has not occurred,
240 but the judge, compensation commissioner or family support
241 magistrate has acted in a manner which gives the appearance of
242 impropriety or constitutes an unfavorable judicial or magisterial
243 practice, the council may issue an admonishment to the judge,
244 compensation commissioner or family support magistrate

245 recommending a change in judicial or magisterial conduct or practice.
 246 If an admonishment is issued, the council shall inform the
 247 complainant, if any, that an admonishment was issued, provided the
 248 admonishment is the result of misconduct alleged in the complaint
 249 and, except as provided in section 2-40 or 31-276, as amended by this
 250 act, the substance of the admonishment shall not be disclosed.

251 Sec. 7. Section 51-51q of the general statutes is repealed and the
 252 following is substituted in lieu thereof (*Effective October 1, 2005*):

253 (a) The Judicial Review Council shall submit its recommendations
 254 concerning the nomination for appointment to a different court of any
 255 judge or nomination for reappointment of any judge whose term of
 256 office is about to expire, including a report of any complaint filed
 257 against any such judge and the disposition of any such complaint, and
 258 including any investigation of any such judge by the council, to the
 259 Governor, to the Judicial Selection Commission and to the [standing
 260 committee on judiciary of the House of Representatives and the
 261 standing committee on judiciary of the Senate, or joint standing
 262 committee on judiciary, as the case may be] joint standing committee
 263 of the General Assembly having cognizance of matters relating to the
 264 judiciary, provided the Judicial Selection Commission shall not
 265 consider any investigation of the Judicial Review Council which
 266 resulted in the exoneration of a judge. The Judicial Review Council
 267 shall make all complaint files concerning any such judge available to
 268 the [chairmen] cochairpersons and ranking members of the [standing
 269 committee on judiciary of the House of Representatives, the standing
 270 committee on judiciary of the Senate, or the joint standing committee
 271 on judiciary, as the case may be] joint standing committee of the
 272 General Assembly having cognizance of matters relating to the
 273 judiciary. No information contained in such files may be removed,
 274 redacted or otherwise withheld prior to making such files available to
 275 the cochairpersons and ranking members of the committee as required
 276 by this subsection. If the Judicial Review Council has reason to believe
 277 any such judge is guilty of [judicial] conduct under section 51-51i,

278 material neglect of duty or incompetence in the conduct of his office, it
279 may refuse to recommend such judge for nomination for appointment
280 to a different court or for reappointment. The Judicial Review Council
281 shall not recommend a judge for nomination for appointment to a
282 different court or for reappointment if the council finds such judge has
283 wilfully violated section 51-39a or has been convicted of a felony or of
284 a misdemeanor involving moral turpitude.

285 (b) The Judicial Review Council shall submit its recommendations
286 concerning the reappointment of any family support magistrate whose
287 term of office is about to expire, including a report of any investigation
288 of any such magistrate by the council, to the Governor.

289 (c) The Judicial Review Council shall submit its recommendations
290 concerning the nomination for reappointment of any compensation
291 commissioner whose term of office is about to expire, including a
292 report of any investigation of such compensation commissioner by the
293 council, to the Governor and to the [standing committee on judiciary of
294 the House of Representatives and the standing committee on judiciary
295 of the Senate, or the joint standing committee on judiciary, as the case
296 may be] joint standing committee of the General Assembly having
297 cognizance of matters relating to the judiciary.

298 (d) If a complaint against any such judge, compensation
299 commissioner or family support magistrate is received by the Judicial
300 Review Council and the Judicial Review Council is unable to make its
301 findings and complete its duties with respect to such judge,
302 compensation commissioner or family support magistrate prior to the
303 expiration of the term of office of such judge, compensation
304 commissioner or family support magistrate, the Judicial Review
305 Council shall not refuse to recommend such judge, compensation
306 commissioner or family support magistrate for reappointment based
307 on such complaint, but shall report the fact of such complaint to the
308 Governor and to the joint standing committee [on judiciary] of the
309 General Assembly having cognizance of matters relating to the

310 judiciary.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	2-40
Sec. 2	<i>October 1, 2005</i>	31-276
Sec. 3	<i>October 1, 2005</i>	51-45c(a)
Sec. 4	<i>October 1, 2005</i>	51-46a(c)
Sec. 5	<i>October 1, 2005</i>	51-49(b)
Sec. 6	<i>October 1, 2005</i>	51-51l(a) and (b)
Sec. 7	<i>October 1, 2005</i>	51-51q

Statement of Purpose:

To clarify the duty of the Judicial Review Council to furnish information concerning judicial and compensation commissioner nominees to the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]